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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,837	08/21/2006	Ralph Beyer	HER07 P-451	2229
277 7590 09/16/2009 PRICE HENEVELD COOPER DEWITT & LITTON, LLP 695 KENMOOR, S.E. P O BOX 2567 GRAND RAPIDS, MI 49501				
EXAMINER				
CHEUNG, CHUN HOI				
ART UNIT		PAPER NUMBER		
3728				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/552,837

**Applicant(s)**

BEYER ET AL.

**Examiner**

CHUN CHEUNG

**Art Unit**

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 6/11/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date 06/11/2009 and 08/31/2009
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

After further reconsideration of the Office Action mailed on 03/11/2009, the Examiner is hereby withdrawn that Office Action in favor of reopening prosecution.

#### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 06/11/2009 and 08/31/2009 are being considered by the examiner.

#### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 24-26, 34-35, 37, 39-40 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berdan (5,350,063) in view of Smith et al (7,041,353).  
As to claim 24, Berdan discloses a package comprising modules (18) arranged side by side (Figure 5), each module (18) comprising a plurality of insulation elements (10, Column 2, lines 62-66) combined by a film covering (16), the modules being by wrapping elements to form a storage and transport unit, the modules being protected against water ingress by a waterproof covering (Polypropylene, 20, Column 3, lines 32-35), wherein each module comprises several insulation rolls or insulation panel packets and the insulation rolls or insulation panel packets are arranged in one layer adjacent to each other. However, Berdan does not disclose the waterproof covering completely encasing the modules. Nevertheless, Smith discloses packaging with waterproof covering (polymeric film, Column 3, line 55) completely encasing the module (Figure 1).

It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the exterior wrap around waterproof covering of Berdan with completely encasing the article within as taught by Smith to prevent water to contaminate the article within the package

As to claim 25, Smith discloses the waterproof covering completely encloses the insulation elements (24, 26, Figure 1).

As to claim 26, Smith discloses waterproof coring is composed of a film (Column 3, line 55).

As to claim 34, Berdan discloses the insulation elements are packaged under a compression ration of at least 4:1 (Column 2, lines 63-65).

As to claim 35, Smith discloses the waterproof covering is bonded in an overlap area (sealed, column 3, lines 54-62).

As to claim 37, as best understood, Smith discloses an excess portion of the waterproof covering projects outwards (Figure 1) to form a rib-like gripping edge which is capable to grip the module at the gripping edge.

As to claim 39, the package of Berdan as modified by Smith in claim 37 above, further discloses the excess portion, but does not disclose the excess portion as measured from a weld to an edge of the film is at least 5 cm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the package of Berdan so the distance between weld area to an edge of the film is at least 5 cm because the selection of the specific distance such as the distance as disclosed by Berdan or as claimed would have been an obvious matter of design choice inasmuch as

the resultant structures will work equally well and inasmuch as applicant's specification does not state that using these specific distance as claimed solves any particular problem or yields any unexpected results.

As to claim 40, Smith discloses the modules do not have a pallet and the modules are stacked and have a waterproof packaging (Figure 3), which the modules being held together by retainers (18).

As to claim 45, Berdan discloses each insulation element comprises a plurality of insulation panels (10).

4. Claims 27-31 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berdan (5,350,063) and Smith et al (7,041,353) as discussed in claim 24 above, further in view of Titchenal et al (3,681,092).

5. As to claim 27-31, Berden and Smith as discussed in claim 24 and 26 above, does not discloses said water proof covering composed a film comprising polyamide and said water proof covering is composed of a moisture-adaptive material whose water vapor diffusion resistance is dependent on a relative humidity of a surrounding atmosphere, when the relative humidity of the atmosphere surrounding the film covering is in the range from 30 to 50%, the material has a water-vapor diffusion resistance of 2 to 5 m diffusion-equivalent air-layer thickness and when the relative humidity is in the range from 60 to 80 %, the material has a water-vapor diffusion resistance of less than 1 m diffusion-equivalent air- layer thickness and said material is composed of polyamide. However, Titchenal discloses package with multiple packets (14) wrap around with outer film (16) and said outer film is made out of polyamides (column 3,

lines 55-58). It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the outer package of Berden as modify by Smith with polyamide outer film package multiple packets as taught by Titchenal to have water proof heat shrinkable material wrapping said inner packets to protect article within the package. Polyamide is the material used for outer water proof film package material by Titchenal, which said material property can also made to moisture-adaptive material whose water vapor diffusion resistance is dependent on a relative humidity of a surrounding atmosphere, when the relative humidity of the atmosphere surrounding the film covering is in the range from 30 to 50%, the material has a water-vapor diffusion resistance of 2 to 5 m diffusion-equivalent air-layer thickness and when the relative humidity is in the range from 60 to 80 %, the material has a water-vapor diffusion resistance of less than 1 m diffusion-equivalent air- layer thickness.

As to claim 43, Berden as modified in claim 43, the material as modified by Titchenal (polyamide) is permeable to water vapor.

6. Claims 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berdan (5,350,063) and Smith et al (7,041,353), further in view of Teague et al (6,471,061).

As to claims 32 and 33, Berdan as discussed in claim 24 above, does not disclose said discloses at least two of the modules are arranged alternatively upright and lying flat or alternately upright to each other. However, Teague discloses a packaging system (20) containing packages which all of the packages are lying flat and offset relative to each other (Figures 1 and 2) which is equivalent to have interior packages arranged in

different orientation such as upright position. It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the package system of Berdan as modified with lying flat and alternatively offset relative to each other as taught by Teague to stack each packages into a large rectangular shape for easily storage and transport. It would also have been obvious to one having ordinary skill in the art at the time the invention was made to modify the package of Berden as modified so the modules layer arrangement arranged upright and lying flat or upright to each other because the selection of the arrangement such as the layer arrangement as disclosed by Berden as modified or as claimed would have been an obvious matter of design choice.

7. Claims 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berdan (5,350,063) and Smith et al (7,041,353), further in view of Favoren (5,417,040) or Bennett et al (6,326,069).

As to claim 36, Berden as modified as discussed in claim 24 above, does not disclose said waterproof covering is composed of film which is self adhesive in an overlap area and which attached to itself on making contact, without additionally requiring an adhesive. However, Favoren discloses a film strip (8 and 9) which is self-adhesive in an overlap area and which attaches to itself on making contact by applying force to attached to each other and Bennett discloses thin layer of adhesive film self-adhesive in an overlap area which attached to itself on making contact (column 4, lines 8-14). It would have been obvious to a person having ordinary skill in the art at the time of the

invention was made to modify the Berden as modified with self- adhesive film as taught by Favoren or Bernett to reseal said package for multiple use.

8. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berdan (5,350,063) and Smith et al (7,041,353), further in view of Rockwool (DE9117214).

As to claim 38, the package of Berdan as modify by Smith in claim 37 above, does not disclose the rib-like edge gripping edge is provided with opening spaced to allow the gripping edge to the grabbed. However, Rockwool discloses a packaging system with top edge (23) having opening spaces (28) to be able to grab said package. It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the modules package of Berdan with edge having openings as taught by Rockwool to easily grab said packaging by the end user.

9. Claims 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berdan (5,350,063) and Smith et al (7,041,353), further in view of Reinhardt (5,873,460).

As to claim 41 and 42, the package of Berdan as modify by Smith in claim 40 above, does not disclose an interposing layer is provided between layers of the modules as a lifting point for a fork lift, and said interposing layer comprises plastic. However, Reinhardt discloses an interposing layer (Spacer 10, layer between dry wall 12 in Figure 1) is provided between layers of the modules as a lifting point for a fork lift (Column 3, lines 23-27), and said interposing layer comprises plastic (High density polystyrene). It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the modules package of Berdan with interposing layer



made of high density polystyrene as taught by Reinhardt to convenience move said packaging with fork lift by the end user.

10. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berdan (5,350,063) and Smith et al (7,041,353), further in view of Rias (4,535,587).

As to claim 44, Berdan as discussed in claim 24, does not disclose each insulation element comprising an insulation roll. However, Rias discloses a package system for insulation element form with an insulation roll (Figures 1-3). It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the insulation pad of Berdan with insulation roll as taught by Rias to have same packaging with different shape and different way of insulation material to benefit the manufacturer.

11. Claim 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berdan (5,350,063), in view of Smith et al (7,041,353) and Titchenal et al (3,681,092).

As to claim 46 and 47, Berdan discloses a module contained in a first covering, with the module being protected against water ingress covering and wherein the insulation elements comprises several insulation rolls or insulation panel packets and the insulation rolls or insulation panel packets are arranged in one layer adjacent to each other. However, Berdan does not discloses said second cover protected the module by wrapping entire modules to protect against water ingress and does not discloses said first material covering is permeable to water vapor. Nevertheless, Smith discloses packaging with outer waterproof covering (polymeric film, Column 3, line 55) completely encasing the module (Figure 1) and Titchenal discloses said first and second covering

are use Polyamide material. It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the exterior wrap around waterproof covering of Berdan with completely encasing the article within as taught by Smith to prevent water to contaminate the article within the package and modify the material use of first and second covering made of polyamide material as taught by Titchenal that permeable to water vapor to kept the material within the package from water vapor ingress.

As to method claims 48-49, all recited structures of the package are disclosed by Berdan, Smith et al and Titchenal et al as discussed in the rejections of claims 46-47 above. The method of transporting and using insulation element assembly from such a package is rendered obvious to one of ordinary skill in the art by the obvious method of transporting and using of Berdan as modified. And also, the use of disposing of a waterproof covering for a high-pitched roof is matter of design choice and does not discloses any structural limitation.

### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHUN CHEUNG whose telephone number is (571)270-5702. The examiner can normally be reached on Monday to Friday: 7:30AM~5:00AM.Alt Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHUN CHEUNG/  
Examiner, Art Unit 3728

/Mickey Yu/  
Supervisory Patent Examiner, Art  
Unit 3728